

AN 5
ABSTRACT of a TREATISE
Concerning the Payment of
Tythes and Oblations
IN
LONDON:

SHEWING
The Antiquity of those Payments

according to the Rents of Houses : That they were paid by Positive Constitutions, according to the true value of the Houses, ever since the Year 1230. and by Antient Custom long before, till the Quantity, not the Name, or Nature was altered in time of *Henry* the Eighth, from Three shillings six pence in the Pound, to Two shillings nine pence in the Pound, as it is now.

The Award and Proclamation, 25 *Hen.* 8.
Confirmed by Act of Parliament, 27 *Hen.* 8.

The Matters Controverted about double Leases, Annual Fines, &c. and concerning the Jurisdiction Ecclesiastical for Tythes of LONDON.

A General Survey of the Value of the LONDON Benefices, both as they are now; and also what they might arise unto, if Tythes were truly paid according to the value of Houses.

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Printed, Anno Dom. MCIO LXII.



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An Abstract of a Treatise concerning the Payment of TYTHES and OBLA- TIONS in LONDON.

CHAP. I.

An Historical Narration of the payment of Tythes and Oblations from the time of ROGER NIGER Bishop of London, about the year 1230. till the Seven and thirtieth of Henry the Eighth.

BY the Custom of London, the Parish Churches were anciently endowed with certain Oblations, viz. One Farthing of every Ten shillings Rent of all Houses, Shops, &c. to be offered by the Parishioners upon every Sunday, and upon every solemn and double Feast, especially and by names of the Apostles, whose Eves were fasted: Which Offerings coming to more then a Tenth part of the Rent, were paid in lieu of Predial Tithes of the Houses, and in recompence of the want of Glebe, as appears at large by Lindwood, and by other Records hereafter mentioned.

The Citizens neglecting to pay the said Offerings or Tythes to their own Curates, and giving part thereof to the Dominicans and Franciscans, who were lately come over and began to Preach here, and draw people after them, a Constitution was made about the year 1230. by Roger Niger, Bishop of London (*Asheritate Ordinaria*) commanding all to pay to their own Curates, as is before expressed, *Et prompt longe retroactis temporibus consuetum extiterat.*

*Lindwood, l. 3.
Tit. de Decimis
cap. Sanct. Ec-
cles. verbo.
Negotiationem,
fol. 103.*

*Roger Niger
Constitution
about Anno H.
3. 1230. Book
of Common
Customs of
London, fol. 18.
Dr. Tildesley, in
Prefat. contra
Seldenz.*

Arundels Con-
stitution, Anno
1397 21 R. 2.
extant in the
Office. 151. A-
rundel, fol. 1.
and in the
Book of Com-
mon Customs.

Pope Innocent's
Bull in the
Book of Cu-
stoms.

Anno 1453.
31 H. 6. Pope
Nicholas Bull
recited at
large in the
Book of Cu-
stoms, fol. 19,
20, 21, &c.

An Award
31 H. 6 menti-
oned in the
Act of Common
Council, 31 H.
6. and recited
at large in the
Book of Cu-
stoms.

Act of Common
Council, 31 H.
6.
Bull received
by Act of Com-
mon Council,
14 Edw. 4 3
Martii, 1474.
3 s. 6 d. in the
pound.

After this when Rents increased, the Citizens refused to pay, if the Rent came to above Forty shillings *per annum*, pretending that no more was intended by *Nigers* Constitution: Whereupon a Constitution was made by *Thomas Arundel*, Archbishop of *Canterbury*, declaring the former, *viz.* That they should pay the said Offerings or Tythes to whatsoever sum the Rent should amount; and this *Sub pœna majoris Excommunicationis*.

These Constitutions were confirmed by Pope *Innocent* the Seventh in his Bull dated in *May*, 1406. *Et pontificatus, Anno secundo*, and all defects supplied, if any were.

After this the Citizens pretending a copy of *Roger Nigers* Constitution (which was adjudged afterwards to be spurious) would pay only on Sundays, and the Apostles days, not on the other solemn and double Feasts; whereupon *Robert Wright* of *St. Edmunds Lumbardstreet*, was cited before the Ordinary, and sentence given against him, and upon appeal, first to the Popes Commissary, and after to the Pope himself; the sentence was twice affirmed, and upon the Letters of King *Henry* the Sixth, Pope *Nicholas* the Second sent out his Bull, commanding the Citizens to pay upon all the said Feasts, authorising the Ordinaries to enquire hereof at the Visitations, and to curse the Offenders, 7. *Idus Aug & Pontif. Anno 7.*

The same year before the Bull was received, an Award or Composition was made by Eight Arbitrators, wherein some days are left out which are appointed by the Bull, the whole Offering in Fifty two Sundays, and Twenty two Holidays, amounting to Three shillings one penny in the pound; which Award was agreed by Act of *Common Council*, 31 *Hien. 6.*

After this (by Act of *Common Council*) the Citizens bind themselves in all things to obey the Bull of Pope *Nicholas*, according to which, they payed for so many days, that the Tythe or Oblation amounted to Three shillings six pence in the pound, Fourteen pence in the noble, One shilling nine pence in the half pound; and not long after, in regard it was troublesome to offer every day, in time of Divine service, by mutual consent the same was payed, either once at *Easter*, or quarterly, by the name of Oblations or Tythes, as appears by the *Decimary* of *St. Magnus*, Anno 1494. about 7. *H. 7.* in the Book of *Common Customs*, and by sundry Suits and Sentences in the *Archs*, and by the Bill of the Parsons exhibited to the

Common

Common Council, 19 *Hen. 8.* remaining on Record in the *Guild-Hall*, and by Records of a Suit in *Star-Chamber*, 25 *H. 8.*

Upon occasion of Sentence given in the *Archos*, 18 *Hen. 8.* against *Robert Hearn* of *St. Mildreds Poultry*, for Fourteen pence in the noble, the Citizens complain in *Common Council*, that the Curates took above the rate appointed by the Bull, *viz.* Fourteen pence in the noble, whereas they should have nothing, unless the Rent came to Ten shillings, and so ascending from Ten shillings to Ten shillings, and not under; and also they sent Bills to every Church, shewing what days should be paid for; according to which computation of theirs, the Tythes came to Three shillings five pence in the pound, which was One penny less then formerly: And they order that nothing should be paid for any sum under Ten shillings, and desire that the Bull may be published in *English* four times a year, as was prescribed, and had been disused, *An. 25 Hen. 8.* When the Popes power was abrogate, some Citizens pretending they should run into a premunire, by obeying the Bull, refused to pay either according to the Bull, or to any former Constitution or Custom, and put up a Bill in *Star-Chamber* against some Parsons that sued in the *Spiritual Court*, praying, That they might pay only Two shillings in the pound (as other Parishes without the Liberties did.) In which Suit, after publication, both parties submitted the cause to the Lords, who ordered the Tythe to be only Two shillings nine pence in the pound, and Sixteen pence half penny in the half pound, dividing the controverted sum, *viz.* Eighteen pence *per* pound, by abating Nine pence of what the Clergy would have, and adding Nine pence more then the Citizens would have paid.

This Order was confirmed by the Kings Letters Patents, *April 2. Letters Patents 25 Hen. 8.* and by Proclamation, upon pain of Fine and Imprisonment, at the Kings pleasure, and by divers Acts of *Common Council* made the same year, and remaining upon Record in the *Guild-Hall*.

The same was confirmed by Act of Parliament, 27 *Hen. 8.* to continue till some other order should be made by the Thirty two persons, to be chosen for reforming Ecclesiastical Laws; and by this Act, the Major hath power to commit such Citizens as refuse to pay according to such order.

According to this Order, divers Sentences passed in the Ecclesiastical Courts, upon emergent Controversies; one for the Parson of

Acts of *Common Council*,
Anno 19. and
20 H. 8. in the
Guild Hall.

Order for 2 s.
9 d. 25 *H. 8.*

Act of Parli-
ment, 27 *H. 8.*

of *St. Dunstons-East*; for Tythe of Wharfs and Cranes: Which Sentence was given in the *Arches*, 30 *Hen. 8.* by a Doctor of Law, especially delegated from the King.

Another for Tythe of Shops, divided from Houses, for the Parson of *St. Magnus* in the same Court.

Anno 35 H. 8. new Controversies arising about Brew-Houses, Dy-Houses, Cranes, &c. a Bill was put up in Parliament by the City, which passed the Commons, but was stayed by the Lords, containing among other things, that for new buildings, no Tythes be paid, so long as the owner lived therein himself; but if they were let out, then to pay the Tythe as other Houses: And that all Tythes should be recovered by Process in the *Spiritual Court*, or *Action of Debt* at the Common Law, and no otherwise.

Anno 37 Hen. 8. for composing all differences, an Order or Award was made by certain Lords, which is the Decree now in question; and an Act of Parliament passed, That such order as the Lords Referrees, or any six of them, should make before the First of *March* then next following, and enrolled in *Chancery*, should stand as an Act of Parliament, and bind the said parties, their Heirs and Successors for ever. This Decree was made by the Lords, *Febr. 24. 1545.* which was delivered the next day to the Bishop of *London*, who the same day caused his Register to endorse an Act on the back-side thereof, testifying his Receipt thereof from the Lords, and his Command to the Register to keep it safely, causing divers persons to attest the same.

This last Decree or Award, is now extant among the Statutes, but the Order of 25 *H. 8.* and the Proclamation thereupon, which are still of as much force as the other, and more beneficial to the Clergy, being not extant in Print, are hereafter added, taken out of authentick Records. After this, in the time of King *Edward the Sixth*, the Citizens still neglecting to pay their Tythes, order was given by the King and His Council to Bishop *Bonner*, among other Instructions, when he was appointed to Preach at *Pauls Cross*, to cause the Citizens to pay their Tythes better, *August 11. 3 Edw. 6.* as appears in *Fox his Monuments, fol. 1187. Vol. 2. Col. 2. Artic. 5.* After this, about the middle of *Queen Elizabeths* Reign, the Rents of Houses being inhandcd, as the prices of all other things were, divers devices were found out, to prevent and defraud the Parsons of their Tythe, (by reserving the Rent under other names, as annual

In a little
Treatise of
Tythes of *Lon-*
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36 *H. 8.* by a
Citizen.

Decree, 37 *H. 8.*
Act of Parli-
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nual and quarterly Fines, during the Lease-Annuities, New-years Gifts, Interest-Moneys, Rent for Implements, and Household-Stuff, and by double Leases, and the like;) of which Grievances they have often complained, and by these means are so many of the Benefices so poor, as we shall shew *Cap. ult.*

CHAP. II.

The Liberal Maintenance of the Clergy of London, before the Five and twentieth of Henry the Eighth, by Tythe of Three shillings six pence in the pound; according to the true value of Houses, the cheapness of those times, conscientiousness in paying Personal Tythes, Duties of Weddings, Burials, Churchings, &c. Chauntries, Obits, &c.

WE see then the nature of these payments. Now that it may appear how well the Parochial Clergy of London were provided for in former times, in comparison of ours; we may consider these particulars.¹

1. That the Citizens paid their Tythes according to Three shillings six pence in the pound, and that according to the true value of the Houses (*Prout locari poterant*) as it is in the Bull of Pope Nicholas, and in the Award of 31 H.8. above-mentioned. Now if the payment of Two shillings nine pence be thought so much, if it should be truly paid without fraud, that nothing is more objected, then that the Ministers would have too much, and be too rich. What think they of Three shillings six pence in the pound, which was duly paid, as will be made clear without any contradiction?

Hence it is in part, That the Benefices in London came to be so highly rated and valued in the *Exchequer*, some at One hundred marks, some at Seventy pounds and upwards, divers at Thirty and forty pounds, and few under Twenty pound or thereabouts, when as yet the Tythe of divers of them is not at this day above Twenty or thirty pounds, and some scant so much in present Tythes, as they were then taxed: And whereas other Livings in the Countrey are generally improved (where they are not kept down by unconscionable Customs, or *Modi decimandi*) since the said valuation, according

ing as all other things are to eight or ten times as much, yet divers Benefices within the Walls of *London*, are scarce doubled in Tythes since that time; yea, some have stood at a stint ever since, and are hardly so much as they were then.

2. That one penny then, was as much as three pence is now, as appeareth by the Statute 51 *H.* 3. where a penny is the twentieth part of an ounce; since which time, from twenty pence the ounce, it was reduced to twenty six pence, 9 *Edw.* 3. to two and thirty pence in 2 *Hen.* 6. to forty pence in the 5 *Edw.* 4. to five and forty pence in 31 *Hen.* 8. and to sixty pence in 2 *Eliz.* which continues to this day: And so by that account Two shillings nine pence in the pound then, was as much as Eight shillings three pence of the money which is now paid, though the fineness of the Coyn did then also exceed ours, besides the low prices of Victuals, and all other necessaries; which came so far short of the inanced prices in these times, that one penny then would go farther, not only then three pence of our money (which is equalled in value) but farther then one shilling now, as will appear, if we look at the price of Corn and other Victuals in those times, which we finde mentioned in credible Records.

In the said Act of Parliament in 51 *Hen.* 3. which was Anno 1267. somewhat after *Roger Nigers* time, made for the Assize of Bread, and of Beer and Ale, for Bakers and Brewers, are mentioned the prices of Wheat, Barley, and Oats: And provision is made, that when a quarter of Wheat, containing eight Bushels, was at twelve pence, what the Assize of Bread should be; and so from Twelve pence to twelve shillings, which was then supposed the highest prices that it could at any time amount unto; as that sometimes it was but Twelve pence a quarter.

It is also there Ordered, That Beer and Ale should be sold in Cities and Towns, according to the prices of Barley and Oats, two or three Gallons a penny, and in the Countrey three or four Gallons for a penny; whereas now the ordinary price of Wheat is Four shillings a quarter, and sometimes in dear years Three pound or four pound a quarter, and Beer and Ale sold at far greater prices: According to the prices of Corn, we may conceive, were the prices generally of other things, as Beeves, Muttons, &c.

There

There is in the *Exchequer*, a Book called *The Black Book*, composed 23 *Hen. 2.* Anno 1177. about Rules and Orders in the *Exchequer*; and among other things there is mentioned, That for provision of the Kings Household, from the time of *Henry* the First, the Officers of the Household reducing their Victuals to an estimate of money, did value a measure of Wheat to make Bread for One hundred men, at Twelve pence; the carcass of a fat Ox, at Twelve pence; a fat Sheep at Four pence; and for the Provender of Twenty Horses, Four pence. During the most part of the Reign of that King *Henry*, a Quarter of Wheat was sold for Twelve pence.

After this, in the year One thousand two hundred ninety and nine, there was a great Dearth. By Act of *Common Council*, 27 *Edw. 1.* these prices were set on Victuals by consent of the King and Nobility, which were then counted very high prices. A fat Cock one penny half penny; a fat Capon two pence half penny; two Pullets one penny half penny; a fat Lamb from *Christmas* to *Shrovetide*, six pence; all the rest of the year, four pence. And in the year One thousand three hundred and fourteen, in 8 *Edw. 2.* to moderate the extream Rates of all, these were appointed by Act of Parliament; a Corn-fed Ox twenty four shillings; a fat *Ball'd Cow* twelve shillings, another ten shillings; a Grass-fed Ox sixteen shillings; a fat Mutton fourteen pence; a fat Goose two pence half penny; a fat Capon two pence; Twenty four Eggs one penny, &c.

After this, Anno 1379. in 3 *Rich. 2.* a Bushel of Wheat was at six pence; a Gallon of White Wine six pence; of Red four pence. Anno 10 *Rich. 2.* which was in the year 1387. at *Leicester* a hundred Quarters of Barley were sold for one hundred shillings.

Anno 1554. and 22 *Hen. 6.* a Quarter of Wheat was sold for twelve pence or fourteen pence. One Farmer dwelling at *Rosey Town*, or *Cruse Rosey* in *Hertfordshire*, sold twenty Quarters of the best Wheat for twenty shillings.

Yea, in later times, if we come lower, even in the time of *Henry* the Eighth, when prices were far higher then before, at the Sergeants Feasts in *Ely House*, Anno 23 *Hen. 8.* (as *Stow* relates) great Beeves brought from the *Shambles*, were at twenty six shillings eight pence a peece; the Carcass of an Ox twenty four shillings; a fat Mutton two shillings ten pence, &c. And to come lower and

nearer yet, 1 *Maria*, a Barrel of Beer was sold for six pence, Cask and all ; and forty great Loafs one penny ; and 5 *Maria*, Anno 1557. a Quarter of Wheat was sold for five shillings.

According to which cheapness of the times, were all Fees, Wages, and Salaries ; a Knights Fee or sufficient Livelihood for a Knight, was so much Land as was worth Twenty pound *per annum*, as *Cooke* proveth out of the Statute of 1 *Edw. 2. De Militibus* ; and of *Westm. 2. cap. 35.* and *Fitz-Herbert, Nat. Brev. fol. 82.* where he tells us, That Antiquity thought Four hundred marks *per annum*, competent maintenance for a Baron ; and Four hundred pound *per annum*, *Ad sustinendum nomen & onus*, of an Earl : And of late time, saith he, Eight hundred marks *per annum*, was thought sufficient for a Marquess ; and Eight hundred pound *per annum* for a Duke. See *Cooke upon Littleton, lib. 2. cap. 3. sect. 95.* And in later times Forty pound *per annum*, was thought sufficient for a Knight, as appeareth by the Statute still in force ; whereby the King may compel any one of such estate to be Knighted, or else to fine, as Sir *Thomas Smith* relates, *De Repub. Angl. lib. 1. cap. 18.*

I have read in a Book of Church Accompts, belonging to St. *Gabriel Fenchurch*, of Countessors Fees about some Land ; amongst other things, *item*, Paid to Mr. Recorder of London for his Fee, twelve pence. * All which Fees we know are now much increased, and some a hundred times doubled ; yea, the Wages of the Scavenger or Kennel-Raker, within our memory, have been doubled or trebled to what they were before.

* In a Leidger Book of St. *Magnus*, London, for a Lawyers Fees, and spent in Wine at a Meeting of the best of the Parish, Eight pence.

According to these prices, the Livings in London were very great, and the Clergy of that City answerable to their Parishioners in ability ; and as the Citizens were and are the wealthiest in the Kingdom, so the Clergy had their estates answerable. The Benefice of St. *Magnus* in London, none of the greatest Parishes, yet as appears by the Printed Book of the *Common Customs of London*, in this year One thousand four hundred ninety and four, which was in the Ninth of *Henry* the Seventh, as it appears by the particulars, was in all One hundred and five pound one shilling and eleven pence, which is as much or more then it is now in Tythe : Which sum in those times, I dare affirm, all things considered, would have gone as far to maintain one, as Five or six hundred pound *per annum* now ; and that a man might have lived as plentifully then with one hundred pound,

pound, as now with five or six hundred pound; which if it should be demanded or expected, would be thought unreasonable.

So then by this Tythe out of Houses, the maintenance of the Clergy of *London* was great in comparison of these times, when the Labor is many times doubled; what was then required, but to say Mass, which was an easie work, Preaching was little used, unless in *Lent*, or towards *Easter*; whereas now by Law or Custom, besides all other Priestly duties, they must Preach not quarterly or monethly, but weekly or ofner, or else be accounted dumb dogs; one Sermon requiring more pains and labor, then the reading of forty Masses; which required some pains of the tongue, but little or no study of the brain at all.

3. That besides the former Tythe, which was in some sort predial; they paid also Personal Tythes of their clear gains, as appears by the Award above-mentioned, 31 H. 6. and by the *Decimary* of St. *Magmus*, and by *Lindwood*, in the place alledged, who disputes the case, Whether the Citizens were free from Personal Tythes, by paying these Tythes of Houses; and concludes Negatively; all which Personal Tythes are now quite disused, and if they should be demanded, they would cry out as they did of Christ, That we come to torment them before their time; and would rather with the *Gaderens*, beseech us all to depart their coasts, then put them to such charges. And considering the conscientiousness of those times, this Revenue must needs be great, and would have amounted to more, I dare say, then most of the Livings are at this day.

4. That the people made great conscience of paying their Tythes, and all duties in those days; and so paid them truly and fully. Hence it was, that in their Wills and Testaments, something was always bequeathed to the Priest, or to the High Altar, which came to his use, in lieu of Tythes pretermitted or forgotten, as may be seen in all old Wills; whereas now so far some be from Restitution, That when they are to leave the world, even then they take order in their Wills to defeat their Ministers, as I have seen some Testaments; wherein to prevent the Parsons Tythes, the Testator hath bequeathed certain Houses to be yearly let out at some small yearly Rent, and the residue to be reserved in yearly Fines for ever: Which for what end it was done, any man may easily judge.

5.

5. That besides Tythes Personal and Predial, there were many other duties amounting to as much, and in some places to more then the Tythe doth at this day ; all which are now taken away, as *Chantries, Obits, Mortuaries, Offerings to Shrines, Voluntary Oblations, &c.* Which *Chantries* were sometimes founded in perpetuity, endowed with Lands for ever ; some others for certain time as appears by the *Donors wills* yet extant, and always beneficial to the Parson of the Church, who was sometimes solely endowed, and sometimes with the Wardens ; more of which *Chantries* there were in *London*, then any where else, where scarce any Church but had one, and some three or four.

I could instance in some small Parish Churches in *London*, where the Tythe is not above Eighty pound, when as the *Chantry* Lands belonging anciently thereto, taken away by the Statute of 1 *Edw.* 6. are at this day worth Five or six hundred pound *per annum*. The Offering to the Image of the Virgin *Mary* at *St. Magnus* by *London Bridge*, was worth four marks *per annum*, 9 *Hen.* 7. as appears by the *Decimary* aforesaid. How commonly were Masses then sold to deliver Souls out of Purgatory, besides the four Offering-days used all over the Kingdom, which are now come to two pence at *Easter*.

How many Voluntary Oblations did people then give, few of any ability appearing at any time empty handed ; but now men will come with the wife men to worship Christ, yet they are grown too wise to open their Treasures, and offer to him. What the Duties or Payments were anciently for Burials, Weddings, and Churchings, we may conjecture by that Schedule annexed to the Bills which was put up in *Star-Chamber* by some Citizens, 25 *Hen.* 8. Wherein, though many impertinencies and untruths be alleaged, yet we may out of their mouths convince those who use to object the Casual Duties now taken, as great Exactions lately brought up, and not anciently practised.

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Duties anciently paid to the Parson or Curate for Weddings.

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| 1. T Here is laid upon the Book after the Cu- stom. | 1. | s. | d. | Duties anciently paid to the Parson or Curate for Weddings. |
| 2. In the two Tapers at Mass. | 0 | 0 | 8 | |
| 3. In the Taper at the latter end of the Mass going to the Font. | 0 | 0 | 2 | |
| 4. The whole Offering at Mass belongs to the Parson, unless the parties compound for it, giving sometime 2 s. or 3 s. or 6 s. 8 d. or more. | 0 | 6 | 1 | |
| 5. If any will be Married before the High Mass, they pay 20 d. 40 d or 5 s. | 0 | 5 | 8 | These Duties were not the same in all Parishes, but differing according to the several Customs of several Parishes. |
| 6. For a Certificate, when a man dwells in another Parish, he pays 1 s. or 20 d. or 40 d. | 0 | 3 | 0 | |

For Burials.

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| 1. If the party be Buried Understood 1 s. or more, and every Priest in the Church 8 d. or more, else they do not sing him to his Burial. | 0 | 1 | 0 | |
| 2. At every Moneth-mind, Years, or Obite, the Curate hath 8 d. or 12 d. | 0 | 1 | 0 | |
| And every Priest in the Church 4 d. or 6 d. | 0 | 0 | 6 | |
| 3. All the Tapers and Wax brought into the Church, with the Coarse, if they be under a pound. | 3 | | | |
| 4. All the Branches of White Wax, if any be brought in with the Coarse, which Branches cost 6 s. 8 d. some 10 s. some 13 s. 4 d. and some pay more. | 0 | 13 | 4 | |
| 5. For privy Tythes 20 d. 40 d. 5 s. 20 s. 40 s. or more. | 2 | 0 | 0 | |
| 6. To the High Altar as much for Personal Tythe. | 2 | 0 | 0 | |
| 7. If any be buried out of his own Parish, the Coarse must be first presented in his own Church, and Dirge and Mass kept as amply as in the place where it is buried. | 3 | | | The same Duties when he is buried out of his own Parish. |
| 8. For the Burial in the Chancel or High Quire 10 s. or 13 s. 4 d. or 20 s. | 1 | 0 | 0 | |

For

For Churchings.

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| | i. For every Sunday when the Woman lies in, for saying a Gospel, 1 d. or 2 d. | } 1. s. d. 0 0 2 |
| | i. At the Purification of Custom in the Taper 1 d. with the Chrysome, and the whole Offering by all the Women at Mass. | } 0 0 1 |
| i. Bead-Roll. | If any Man would have his Friends prayed for in the Bead Roll, the Curate hath by year for every one 4 d. or 8 d. | } 0 0 8 |
| i. Houfel at Easter. | Of Mens Wives, Children and Apprentises, for their Communion at Easter for every head. | } 0 0 2 |
| | Of all Servants that take Wages, the tenth part of their Wages for the Privy Tythes, and for their Houfel at Easter. | } 0 0 2 |
| i. Tythes of Servants Wages. | At all Principal Feasts, as <i>Candlemas, All-Souls</i> day, <i>Creeping on the Croß, Good Friday, Easter</i> day, in Confessions at <i>Lent</i> , and other times of the year, as the Patrons of the Church, divers offer some Wax, some Money, which comes to the Parsons use. | |
| i. Mens Devotions on divers days. | Where a Saints Image stands without the Quire, to which a Brotherhood belongs, the Wardens of the Brotherhood compound, some for 3 s. 4 d. 5 s. 6 s. 8 d. or more, <i>per annum</i> , to have the Brotherhood kept in the Church. | } 0 6 8 |
| Leases. | For Sealing a Lease of a House belonging to the Church, 20 s. 40 s. 3 l. 4 l. or more. | } 4 0 0 |

These Duties although the Citizens complained of in *Star-Chamber*, together with the Tythes; yet the Lords Referrees, as it seems, saw so little reason to alter any one of them, that although they

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they abated the Tythe to Two shillings nine pence in the pound, yet they let those Duties remain as they did.

6. That the Recovery of Tythes was easie in those days, for Ordinaries were appointed, in their Visitations, to enquire of the Detainers, and to curse the Offenders, as appears by Pope *Nicholas* his Bull: And if any did sue, the cause was heard summarily, *Sine iudicii strepitu*, no such delays and chargeable Suits as now, were then known, unless in some special case that concerned the whole City.

All these things considered, shew how liberally the Clergy were then provided for; although they had not, nor could have the charge which many now have, being then by Law prohibited to marry, nor was their pains comparable to that which is now expected and required.

But now all is clean inverted, instead of Three shillings six pence, according to the true value of Houses, there is not paid Two shillings nine pence, no not nine pence in the pound throughout the City, take one House with another: As for Personal Tythes, they are things unknown, not onely *Obits* and *Chantries* abolished as Superstitions, but also *Mortuaries* and Voluntary Oblations quite gone, and the Recovery of that little Tythe which is left (if any deny to pay it) so beset with difficulties, that the most are glad to take any thing they can get; nor doth any one Parish, one of twenty pay him Tythes according to any Rent, either old or new, but some small sum, such as the Parson and he can agree upon.

CHAP. III.

The Decimary of St. Magnus, London, with the Rents and Tythes of every House, according to the Rate of Three shillings six pence in the pound; with the other Duties for Burials, and Christmings, Weddings, &c. taken Anno 9 Hen.7. and about that time Printed.

NOW that it may the better appear, both what Rents were paid about those Tythes, and also how the Tythe and Offering was paid accordingly; We have thought good to set down the *Decimary* of

of St. Magnus, London, as is extant in the said Book of *Common Customs*; wherein every Mans Rent then paid is set down, and withal the Tythe or Offering which was paid exactly according to the said Rate of Three shillings six pence in the pound, One shilling nine pence in the half pound, and Fourteen pence in the noble, taken (as appears there in the year 1494.) which was in the Ninth of Henry the Seventh, and about Forty years after the Bull, and published by a Citizen.

The Value and Stint of the Benefice of Saint Magnus at London Bridge, yearly to their Parson.

The Reckoning of the same the first day of December, Anno Dom. 1494.

| Rent. | | | | Tythe- Offering. | | | Rent. | | | | Tythe- Offering. | | |
|----------------|----|----|----|---------------------|----|----|----------------|----|----|----|---------------------|----|----|
| | l. | s. | d. | l. | s. | d. | | l. | s. | d. | l. | s. | d. |
| Edw. Bellow | 4 | 0 | 0 | 0 | 14 | 0 | John Wilford | 1 | 13 | 4 | 0 | 5 | 10 |
| Henry Somer | 8 | 0 | 0 | 1 | 8 | 0 | John Palmer | 1 | 15 | 0 | 0 | 6 | 10 |
| Thomas Cooper | 4 | 6 | 8 | 0 | 15 | 2 | William Clerk | 1 | 6 | 8 | 0 | 4 | 8 |
| Heyman | 1 | 13 | 4 | 0 | 5 | 10 | Tho. Horwood | 1 | 6 | 8 | 0 | 4 | 8 |
| Rich. Arnold | 10 | 0 | 0 | 1 | 15 | 0 | Will. Ayle | 1 | 13 | 4 | 0 | 5 | 10 |
| John Ball | 2 | 0 | 0 | 0 | 7 | 0 | Tho. Knolling | 1 | 6 | 8 | 0 | 4 | 8 |
| Henry Can | 2 | 13 | 4 | 0 | 9 | 4 | Bull | 1 | 0 | 0 | 0 | 3 | 6 |
| Jam. Rudston | 3 | 3 | 4 | 0 | 11 | 8 | Robert Seaton | 2 | 6 | 8 | 0 | 8 | 2 |
| Wil. Gardiner | 2 | 0 | 0 | 0 | 7 | 0 | Will. Hadwele | 2 | 6 | 8 | 0 | 10 | 1 |
| Roger Mayd | 5 | 0 | 0 | 0 | 17 | 6 | Stockton | 1 | 6 | 8 | 0 | 4 | 8 |
| Tho. Farning | 2 | 6 | 8 | 0 | 8 | 2 | John Gregory | 2 | 0 | 0 | 0 | 7 | 0 |
| Huntley | 2 | 13 | 4 | 0 | 9 | 4 | Thomas Britt | 1 | 10 | 0 | 0 | 5 | 3 |
| John Young | 2 | 6 | 8 | 0 | 8 | 2 | Tho. Mattr | 1 | 6 | 8 | 0 | 4 | 8 |
| William Mott | 2 | 13 | 4 | 0 | 9 | 4 | Gilb. Forman | 1 | 6 | 8 | 0 | 4 | 8 |
| Peter Scot | 4 | 3 | 4 | 0 | 14 | 7 | Walter Boswel | 2 | 0 | 0 | 0 | 7 | 0 |
| Robert Vincent | 2 | 6 | 8 | 0 | 8 | 2 | Rich. White | 5 | 0 | 0 | 0 | 17 | 6 |
| Joh. Humsfry | 6 | 6 | 8 | 0 | 18 | 7 | William Steed | 11 | 0 | 0 | 1 | 18 | 6 |
| Tokas | 0 | 13 | 4 | 0 | 2 | 4 | John Hasleler | 4 | 0 | 0 | 0 | 14 | 0 |
| Tho. Blount | 2 | 13 | 4 | 0 | 9 | 4 | Rich. Borne | 5 | 0 | 0 | 0 | 17 | 6 |
| Symk. Newton | 3 | 3 | 4 | 0 | 11 | 0 | Rich Watron | 2 | 0 | 0 | 0 | 7 | 0 |
| John Temple | 2 | 0 | 0 | 0 | 7 | 0 | Rich. Franklin | 1 | 6 | 8 | 0 | 4 | 8 |

Richard Aliff.

Richard Aliff.

Rich
Reyn
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Rich
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Tho.
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John
will.
John
John
wil.
John
John
John
John
John
Symk
Henry
John
James
Nichol
Andr.
Bartho
W. Stur
wil. G
Joh. H
John J
Rich. C
Robert
Ste. W
John A
Rich. I
Tho. P
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Aliff.

Rent.

Tyhe-
Offering.

l. s. d.

l. s. d.

| | | | | | | |
|-----------------|----|----|---|---|----|----|
| Richard Aliff | 1 | 13 | 4 | 0 | 5 | 10 |
| Reyn. James | 1 | 0 | 0 | 0 | 3 | 6 |
| Will. Roming | 1 | 0 | 0 | 0 | 3 | 6 |
| Rich. Gariner | 1 | 6 | 8 | 0 | 4 | 8 |
| Rich. Gardiner | 2 | 0 | 0 | 0 | 7 | 0 |
| Hen. Thomson | 1 | 6 | 8 | 0 | 4 | 8 |
| Tho. Morton | 3 | 6 | 8 | 0 | 11 | 8 |
| Rich. James | 1 | 6 | 8 | 0 | 4 | 8 |
| John Rolchant | 3 | 10 | 0 | 0 | 12 | 3 |
| Will. Weller | 1 | 10 | 0 | 0 | 5 | 3 |
| John Ford | 1 | 6 | 8 | 0 | 4 | 8 |
| John Adam | 1 | 6 | 8 | 0 | 4 | 8 |
| Wil. Blanck | 1 | 10 | 0 | 0 | 5 | 3 |
| John Ford | 1 | 6 | 8 | 0 | 4 | 8 |
| John Adam | 1 | 6 | 8 | 0 | 4 | 8 |
| Wil. Blanck | 1 | 10 | 0 | 0 | 5 | 3 |
| John Brown | 1 | 6 | 8 | 0 | 4 | 8 |
| Il linby | 3 | 0 | 0 | 0 | 10 | 6 |
| John Calker | 1 | 6 | 8 | 0 | 6 | 5 |
| John Etton | 1 | 13 | 4 | 0 | 5 | 10 |
| Symkin Mott | 2 | 6 | 8 | 0 | 8 | 2 |
| Henry Sander | 1 | 13 | 4 | 0 | 5 | 10 |
| John Slingsby | 2 | 0 | 0 | 0 | 7 | 0 |
| James Walker | 2 | 0 | 0 | 0 | 7 | 0 |
| Nicholas Hill | 1 | 13 | 4 | 0 | 5 | 10 |
| Andr. Austen | 4 | 0 | 0 | 0 | 14 | 0 |
| Bartho. Dwele | 2 | 6 | 8 | 0 | 8 | 2 |
| W. Sturingsfeld | 2 | 0 | 0 | 0 | 7 | 0 |
| Wil. Grin | 4 | 10 | 0 | 0 | 15 | 9 |
| Joh. Hastilar | 1 | 13 | 4 | 0 | 5 | 10 |
| John Jarret | 4 | 0 | 0 | 0 | 14 | 0 |
| Rich. Clark | 3 | 0 | 0 | 0 | 10 | 6 |
| Robert Lamb | 5 | 6 | 8 | 0 | 18 | 8 |
| Ste. Webnour | 4 | 0 | 0 | 0 | 14 | 0 |
| John Alkin | 2 | 13 | 4 | 0 | 9 | 4 |
| Rich. Hayel | 3 | 3 | 4 | 0 | 11 | 1 |
| Tho. Petite | 10 | 13 | 4 | 1 | 17 | 4 |
| Wil. Dekin | 2 | 13 | 4 | 0 | 9 | 4 |

Rent.

Tyhe-
Offering.

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l. s. d.

| | | | | | | |
|----------------|----|----|---|---|----|----|
| Hen. Crechin | 1 | 6 | 8 | 0 | 4 | 8 |
| Tho. Burget | 5 | 6 | 8 | 0 | 18 | 8 |
| John Farmar | 5 | 6 | 8 | 0 | 18 | 8 |
| Rich. Jeffrey | 11 | 6 | 8 | 1 | 19 | 8 |
| Tho. Elwen | 6 | 13 | 4 | 1 | 3 | 4 |
| Henry Bube | 3 | 6 | 8 | 0 | 11 | 8 |
| John Chambes | 2 | 6 | 8 | 0 | 8 | 2 |
| Robert Blake | 3 | 0 | 0 | 0 | 10 | 6 |
| Ech. wife | 1 | 0 | 0 | 0 | 3 | 6 |
| Ech. wife | 1 | 10 | 0 | 0 | 5 | 3 |
| B. Hawkins | 2 | 6 | 8 | 0 | 8 | 2 |
| Joh. Hawkins | 5 | 6 | 8 | 0 | 18 | 8 |
| Tho. Ladal | 5 | 10 | 0 | 0 | 19 | 3 |
| Tho. Brook | 4 | 0 | 0 | 0 | 14 | 2 |
| Wil. Pawley | 1 | 13 | 4 | 0 | 5 | 10 |
| Wil. Bowar | 3 | 6 | 8 | 0 | 11 | 8 |
| Wil. Bowar | 0 | 19 | 0 | 0 | 3 | 4 |
| Sol. wife | 0 | 13 | 4 | 0 | 2 | 4 |
| Wil. Barre | 0 | 10 | 0 | 0 | 1 | 9 |
| John Pierfon | 0 | 10 | 0 | 0 | 1 | 9 |
| John Barbary | 0 | 10 | 0 | 0 | 1 | 9 |
| Mari. Gregory | 0 | 10 | 0 | 0 | 1 | 9 |
| Rob. Bartiles | 5 | 6 | 8 | 0 | 18 | 8 |
| Mrs Newman | 2 | 6 | 8 | 0 | 8 | 2 |
| Richard Hill | 7 | 0 | 0 | 1 | 4 | 6 |
| Wil. Lawrence | 2 | 13 | 4 | 0 | 9 | 4 |
| for a house | | | | | | |
| of I. R. | 1 | 0 | 0 | 0 | 3 | 6 |
| Roger | | | | | | |
| The same R. | 0 | 13 | 4 | 0 | 2 | 4 |
| for a Flax-sh. | | | | | | |
| John Pye | 0 | 13 | 4 | 0 | 2 | 4 |
| Richard Knyt | 6 | 13 | 4 | 1 | 3 | 4 |
| Rich. Gough | 6 | 6 | 8 | 1 | 2 | 2 |
| R. Matthews | 3 | 6 | 8 | 0 | 11 | 8 |
| Gregory Stot | 4 | 6 | 8 | 0 | 15 | 2 |
| A. Peirpoint | 5 | 13 | 4 | 0 | 19 | 10 |
| John Ben | 4 | 0 | 0 | 0 | 14 | 0 |

C

John

| | Rent. | | | Tythe- Offering. | | | | Rent. | | | Tythe- Offering. | | | | | |
|--------------------------------------|-----------|-----------|-----------|---------------------|-----------|-----------|----------------|-----------|-----------|-----------|---------------------|-----------|--------------|-----------|-----------|-----------|
| | <i>l.</i> | <i>s.</i> | <i>d.</i> | <i>l.</i> | <i>s.</i> | <i>d.</i> | | <i>l.</i> | <i>s.</i> | <i>d.</i> | <i>l.</i> | <i>s.</i> | <i>d.</i> | | | |
| John Ben for a Watering place. | 0 | 10 | 0 | 0 | 1 | 6 | Will. Ramsay | 5 | 0 | 0 | 0 | 17 | 6 | | | |
| The same for a Celler. | | | | | | | 0 | 6 | 8 | 0 | 1 | 2 | Tho. Dolphin | 8 | 0 | 0 |
| John Trowth | 11 | 13 | 4 | 2 | 0 | 0 | Wil. Atkinson | 3 | 16 | 0 | 0 | 13 | 5 | | | |
| John Alman | 12 | 0 | 0 | 2 | 2 | 0 | John Smith | 4 | 13 | 4 | 0 | 16 | 4 | | | |
| John Turk | 4 | 0 | 0 | 0 | 14 | 0 | Justin Wife | 2 | 6 | 8 | 0 | 8 | 2 | | | |
| John Kirby | 16 | 0 | 0 | 2 | 16 | 0 | William Hop | 7 | 6 | 8 | 1 | 5 | 8 | | | |
| Philip Sener | 6 | 0 | 0 | 1 | 1 | 0 | Rich. Cockus | 3 | 6 | 8 | 0 | 11 | 8 | | | |
| Ed. Garrard | 1 | 6 | 8 | 0 | 4 | 8 | Sum of all the | | | | | | | <i>l.</i> | <i>s.</i> | <i>d.</i> |
| Thomas Lyon | 4 | 0 | 0 | 0 | 14 | 0 | Rent is | | | | | | | 434 | 12 | 8 |
| Nich. Morton | 3 | 0 | 0 | 0 | 10 | 6 | The sum of the | | | | | | | 75 | 8 | 8 ob |
| | | | | | | | Offerings | | | | | | | | | |

The Shops in Bridge-street.

| Rent. | | | | Tythe- Offering. | | | | Rent. | | | | Tythe- Offering. | | | |
|--------------------------------|---|----|---|---------------------|----|----|--|----------|----|---|----------|---------------------|----|--|--|
| l. s. d. | | | | l. s. d. | | | | l. s. d. | | | | l. s. d. | | | |
| Tho. Lidal for } two Shops. | 9 | 6 | 8 | 1 | 12 | 8 | John Turk | 3 | 13 | 4 | 0 | 12 | 10 | | |
| John Thornton | 2 | 10 | 0 | 0 | 8 | | John Sepman | 2 | 13 | 4 | 0 | 9 | 4 | | |
| Gregory Stot | 2 | 13 | 4 | 0 | 9 | 9 | Wil. Ramsely | 5 | 0 | 0 | 0 | 17 | 6 | | |
| Will. Panley | 4 | 0 | 0 | 0 | 14 | 4 | The same } | 2 | 6 | 8 | 0 | 11 | 8 | | |
| Rich. Knight | 6 | 13 | 4 | 1 | 3 | 4 | William. | 6 | 0 | 0 | 0 | 18 | 8 | | |
| Thomas Legg | 5 | 6 | 8 | 0 | 18 | 8 | Tho. Brook | 6 | 0 | 0 | 0 | 18 | 8 | | |
| Hen. Shotford | 3 | 0 | 0 | 0 | 10 | 6 | The sum of the Rent of the Shops | | | | l. s. d. | | | | |
| John Palmer | 5 | 0 | 0 | 0 | 17 | 6 | | | | | 70 | 3 | 4 | | |
| Tho. Gasley | 2 | 16 | 8 | 0 | 9 | 11 | The sum of the Of- ferings for them | | | | 12 | 3 | 4 | | |
| Richard Cox | 4 | 3 | 4 | 0 | 14 | 7 | | | | | | | | | |
| John Austen | 4 | 0 | 0 | 0 | 14 | 0 | | | | | | | | | |

| | | | |
|--|-----------|-----------|-----------|
| <i>Item, The Parsonage valet</i> | <i>l.</i> | <i>s.</i> | <i>d.</i> |
| <i>Item, The Image of our Lady at the Bridge valet</i> | 2 | 13 | 4 |
| Weddings, Burials, Purifications, Chryfoms, and Privy | 1 | 13 | 4 |
| Tythe | 12 | 13 | 4 |

Sum of this part ———— 17 0 0

Sum of the whole Revenues 105 1 11 ob

These

*These be the Costs and Charges belonging to the same
Church of St. Magnus.*

| | <i>l.</i> | <i>s.</i> | <i>d.</i> |
|---|-----------|-----------|-----------|
| First, The Priests Wages | 10 | 0 | 0 |
| For Wax to the High Altar | 1 | 0 | 0 |
| For the Pension of the same | 2 | 0 | 0 |
| For Washing of Altars on <i>Mauunday</i> } <i>Thursday</i> | 0 | 5 | 0 |
| For Frankinfence | 0 | 0 | 10 |
| Sum of the Charge | 13 | 5 | 10 |

So the sum of the clear value of the
Benefice was this year 91 16 10

In this Rental of St. Magnus we may observe.

1. That the Rents were not then kept secret or unknown, but notorious, and that the Rent and Tythe still agreed together; whereas now scarce any one House in a Parish, pays Tythes according to any Rent, new or old, because the Rents are kept secret.

2. That Tythe was paid according to the full and extended Rents of those times, which were the true value of the Houses; for we finde Rents of 8l. 10l. 11l. 12l. 16l. *per annum*, which were as high Rents as 80l. 90l. 100l. are now; and divers Shops let at 5l. 6l. 20 nobles, 10l. which was without doubt, the utmost value in those times.

3. That where the old fums were less then a Noble, they paid according to the proportion of Fourteen pence in the Noble. Custom it seems prevailing therein, as *Peter Scots* House, whose Rent is Four pound three shillings four pence, the Offering was Fourteen shillings seven pence, where seven pence is for the odd Ten Groats; and *John Palmers* whose Rent is Thirty five shillings, the Offering Six shillings one penny half penny; where for the whole Pound is Three shillings six pence; for the two Nobles Two shillings four pence; and for the odd Twenty pence, three pence half penny; which is all Six shillings one penny half penny.

C 2

4. That

4. That they paid Tythe then for Shops and all, as well as dwelling Houses, though divided from dwelling Houses, which many Citizens afterwards would have had exempted, as appears by a Suit in the *Archies*, 32 *Hen. 8.* And many now exempt them under other names, calling their Shops, Sheds, Stalls, or Standings.

5. That Privy Tythes, and Duties for Burials, Weddings, and Churchings, were then paid, besides this Thre shillings six pence in the pound; and therefore are no new devices of the present Rectors, as some have said, for there we see they come to a good sum *per annum*, viz. Twelve pound thirteen shillings four pence, which alone would have maintained a Parson as well then as One hundred pound now, which few of the *London* Livings are now worth.

CHAP. IV.

The Award and Proclamation for the Two shillings nine pence in the pound, 25 Hen.8. Confirmed by Act of Parliament, 27 Hen. 8.

HOW the Tythe came from Three shillings six pence to Two shillings nine pence in the pound, we shewed in the first Chapter; now because the Award and Proclamation there mentioned, are not extant in Print, and yet are in force by Act of Parliament, 27 *Hen.8.* I have thought fit to add them here.

The Copy of the Kings Letters Patents, wherein the Award is recited and confirmed.

HENRY By the Grace of God, King of *England*, and of *France*, Defender of the Faith, and Lord of *Ireland*. To Our Trusty and Welbeloved, the Mayor, Aldermen, and Sheriffs of London, and to every of them, greeting. Whereas Variances between the Parsons and Curates of Our City of London, on the one party, and Our loving Subjects the Inhabitants of the same Our City, of the other party, for and concerning Tythes, Oblations, and other Duties, hath long depended indiscussed, and being lately compromised by

by both of the said parties to the Arbitrement of the most Reuerend Father in God, Thomas Archbishop of Canterbury, Primate and Metropolitane of England, and to Our Right Trusty and entirely Beloued Cousin, Sir Thomas Awdely Knight, Our Chancelloz of England, and to Our Right Trusty and Welbeloued Counsellor, the Bishop of Winchester, Thomas Cromwel Esquire, Master of Our Jewels, and Our two Chief Iustices of either Bench, who traveling herein, haue taken this Order, to be kept at this holy time of Easter.

That is to say, That every Our Subjects shall pay to the Parson or Curate where he inhabiteth, after the rate of Two Shillings nine pence in the pound, and Sixteen pence half penny in the half pound, and so always ascending from half pound to half pound. And also that Hens Wives, their Seruants, Childzen, and Apprentices, taking, and receiuing the Holy Sacrament, shall pay every of them for their four Offering days, two pence; and this to be done quietly and charitably, without grudge or murmure, at this holy time of Easter, till such time as our said Counsellors, shall finally and definitely end and determine the variance for this, and all other causes depending between the said parties, as to Right, Equity, and good Conscience shall appertain.

We therefore will and command you, and every of you, to signifie to all Our loving Subjects in every Parish in Our said City: That Our pleasure is, that they, and every of them, shall obey, obserue, and perform at the holy time of Easter, the order of the said Counsellors in form aboue rehearsed, without contradiction hereof in any behalf, declaring to them, that their so doing shall not turn, nor be alledged to their prejudice, hurt, or damage, in and upon the final conclusion of all the said variances, to the definitive arbitrement whereof Our said Counsellors intend (God willing) to proceed with all speed, and diligence, after the said feast of Easter: And if any contemn the Order of Our said Counsellors in this behalf, We will then, if after honest monition, he refuse so to do, he be committed to ward safely to be kept, till Our further pleasure be known in this behalf;

half; not failing this to do, as ye intend the advancement of Justice, and quietness of Our People.

In witness whereof, We have caused this Our Letters to be made Patents. Witness Our Self at Westminster, the Second day of April, the Fife and twentieth year of Our Reign.

CAILLOR.

Extract. per Robert. Michel. Deput. Com. Cleric. Civitat. London.

A PROCLAMATION concerning Payment of Tythes and Oblations, as well within the City of London, or elsewhere within the Realm.

THe Kings most Excellent Majesty, having perfect knowledge, and understanding, that as well His loving Subjects, Citizens of the City of London of the one party, as the Parsons and Curates of the Churches of the said City of the other party, by their mutual Assents, compromised themselves to stand to, abide and perform, the Order, Decree, and Arbitrement of His Right Trusty, and Right entirely Beloved Counsellors; the most Reverend Father in God, Thomas Archbishop of Canterbury, Metropolitane and Primate of England, Thomas Awdeley Lord Chancelor of England; the Reverend Father in God, Steven Bishop of Winchester, Thomas Cromwel Esquire, Chief Secretary to the Kings Highness, and Master of the Rolls; John Fitz-James Knight, Chief Justice of Pleas, to be holden before the Kings Highness, and Robert Norwich Knight, Chief Justice of the Common Bench, in, and upon the debate and variance, that was moved between the said parties upon the Rule and certainty of Tythe Offerings, and other Duties claimed by the said Parsons and Curates, to be paid by the Kings said Subjects, the Citizens of His said City. Whereupon

upon the said Counsellors of Our said Sovereign Lord, by great Advice and Deliberation, by one Accord and Assent, among other things, have Ordained and Decreed, That every the Kings said Subjects, Citizens and Inhabitants of His said City, should from the time of their Award and Decree, pay for their Tythes Sixteen pence half penny for every Ten shillings of the House-Rent; and for every Twenty shillings, Two shillings nine pence; and so accounting and ascending always by Ten shillings, should pay for every Ten shillings, after the rate of Sixteen pence half penny, and not above; and yet nevertheless, the Kings Highness is informed, that divers and sundry persons which inhabite within His said City, not onely refuse to pay the said Tythes according as is limited by the said Counsellors; but also that many of the said Citizens, and of other the Kings Subjects inhabiting in sundry parts of this Realm, grudged, and murmured, to pay their Tythe-Offerings, and other lawful Duties to the Parsons, Vicars, and others having Cure of their Souls, like as heretofore by the laudable Customs of this Realm, they have done and been accustomed to do, and obstinately and wilfully withhold and detain their said Duties against Justice, Equity, Reason, and good Conscience, to the great peril of their Souls.

For Reformation whereof, the Kings said Royal Majesty, being the Supream Head on Earth, under God of the Church of England, minding and intending to maintain and sustain the honor of God, and the godly Observances, and rightfull Duties Customable; and by laudable Custom due to the Ecclesiastical Ministers of the Church of England, in as large and ample manner, as heretofore hath been laudable and honorable used within this Realm.

Doth therefore by His present Proclamation straightly charge and command, all, and every His said Subjects of His said City, to satisfie, pay, and content their Parsons, Vicars, and others having cure of their Souls, in the name and lieu of their Tythes, after the rate above expressed, and limited by the Kings said Counsellors. And that all such of His said City, as pay less of yearly Farm then ten shillings; and all and every other person and persons, Men, Women,

Womem, or Childezen, which do inhabit the said City (being of age to receive the blessed Sacrament of the Altar (the erroneous doctrine of Transubstantiation was not then abolished) the very Body of our Lord Jesus Christ,) shall pay yearly for the four Offering days two pence (the Householders inhabiting within the said City, paying above the yearly Rent of Ten Shillings onely for their own persons excepted, and to be discharged of the two pence for the said four Offerings.) And over this, His Highness straightly chargeth and commands, That all and every other His Subjects, in all other parts of this His Realm, shall pay and content to the Parsons, Vicars, and other the Ministers of the Church, and having Cure, such Tythes, as well Prebendial, as Personal Offerings, and other Duties, which by the laudable Customs of the Realm, they heretofore have been obliged, accustomed, and bound to pay, without defaulting any part thereof, and without further denial, contradiction, molestation, or trouble in that behalf, upon pain that every person offending this His Gracious Proclamation, is to have Imprisonment, and to make Fine at His Gracious Pleasure; and over, that the Offenders shall run into His Highness displeasure and indignation.

And His Majesty also charges and commands, as well all and singular Archbishops, Bishops, and all others, having Ecclesiastical Jurisdiction; as all and singular Pastors, Sheriffs, Bailiffs, Aldermen, and all other His Ministers, true Leigmen and Subjects, as well of this City of London, as elsewhere within this Realm; that they and every of them, put their effectual endeavors for the due execution of this His Proclamation, from time to time, as to them shall appertain, upon the pains above rehearsed.

God save the King.

Tho. Berthelet Regius Impressor Excudebat.

Cum Privilegio.

The date of this Proclamation is not expressed, but it appears to have been presently upon the Award in the same year of His Reign,
for

for it must needs be after the Award which it recites, and confirms; by the Act of Parliament in the One and twentieth year, wherein it stands confirmed, it appears to have been before *Easter*, 1533. which was towards the latter end of the Five and twentieth year of His Reign.

In this Award and Proclamation, onely the quantity of the Tythe is altered from Three shillings six pence, to Two shillings nine pence; in all other things, the former Customs and Constitutions are left in force; so that if formerly the Rates were paid according to the true value of Houses, and recovered before the Ecclesiastical Judge, as certainly they were, the same course was to be observed still, as appears by the Suits and Sentences in the Arches, here mentioned before:

CHAP. V.

Concerning the meaning of the Decree of 37 H. 8. That Tythe is due according to improved Rent, if reserved by that name of Rent, granted by the City Counsel. The Case of double Leases, Annual Fines, Arguments on both sides, Answers to the Legality, and convenience of paying according to improved Rent. A brief Survey of the Livings, as they now are, and they could arise unto according to the value of Houses, with the moderate desires and demands of the present Clergy, in the late Suit before His Majesty.

FOR the Conclusion of this Treatise, I have thought fit to set down some of those Arguments on both sides, in the points chiefly controverted about the sense of the last Decree of 37 Hen. 8. wherein we must know first, that there are some things clear and without controversy.

1. It is granted by Counsel learned of all sides, that whatsoever some bold Ignaroes talk of old Rents, That if a greater Rent be reserved at any time, by the name of Rent upon any House, then the old Rent, that then Tythe ought to be paid according to Two shillings nine pence in the pound, according to the improved Rent, though the Rent be the full value of the House. This appears by divers Orders, made by the Lord Majors themselves, wherein Tythe hath been decreed, according to the full improved Rent, reserved by name of Rent.

2. It is granted likewise by Counsel, That if an improved Rent be reserved by the Owner or Inheritor of the House; that His Act shall charge the House with Tithe accordingly for ever, though less Rent be reserved afterwards by Fines or Frauds, or any other devices, unless the House come to be lesser worth in true yearly value.

3. They grant likewise, That if a Lessee shall let out his House in part or in whole, at a full Rent by the name of Rent, though afterwards he let the same out for less Rent, by reason of Fines, or double Leases, yet the Tythe shall be paid according to the highest Rent, during the time or term of years, which the said chief Lessee hath in his House.

1. Cases controverted, are chiefly these; where the old Rent is still continued without encrease, by reason of Fines really paid before hand; whether the Tythe shall be paid according to the true value of the House, or of the old Rent?

2. When the old Rent is onely reserved by the name of Rent, and the improvement is, and hath always been reserved by other names, as *Fines, Annuities, New-Years Gifts, &c.* to be yearly and quarterly paid, as the Rent is, and to begin and end with the Lease, done purposely to prevent their Parsons Tythes; whether those Payments be Rents as to the payment of Tythes, and according to the true intent of the Decree?

Whether the Jurisdiction Ecclesiastical, be quite taken away by the Decree, and the Major be made sole Judge? or whether it remain in the same state it was before the said Decree?

The first of these I will not insist upon, because there are few such instances to be found without any Augmentations of Rents, by Fines really paid; the most of the frauds and practises having been invented since the encrease of Rents: And therefore I pass that over, and shall onely propound some Arguments about the two latter Cases, wherein I shall not take upon me to determine any thing, but submit all to the judgment of the Learned Professors of the Laws.

the Case.

That all Annual Payments are Rents, and liable to Tythes; as when one lets a House for Ten pound, supposed to be the accustomed Rent, and reserves Fifty pound more by Covenant, as a yearly Fine, to begin and end with the Lease, and to be paid at the same days of payment with the Rent; that this is a Rent, and liable to the payment of Tythes, may be proved.

1. From the usual acception of the word in common speech, which agrees with the Etymology (*Redditus à reddendo, or Reditus à redeundo.*)

undo.) If a man do but let out his money, he calls the interest Rent. If one ask one that holds such a Lease in question, what Rent he pays, he saith he sits at a deer Rent, reckoning all the yearly Payments: And therefore when the Land-lord and Tenant agree, they agree for so much Rent, till the Lease come to be made by the Scrivener; who tells them, they must take some course to prevent the Parson, who will else claim his Tythes after the full Rent; and yet some, even after such Leases made, give acquittances for all in the name of Rent. Now here the Civil Law saith, *Communis usus loquendi pravalet rigori & significationi Verborum*; and the Common Law attributes much to common speech, 39 Edw. 3. 11. Sir *Mo, le Finches* Case, Col. 6. 63, &c.

2. Legally, properly, and even in the construction of the Common Law, it is a Rent; it is none indeed of *Littletons* Rents, nor Rent change, nor Rent-seck, nor Rent-service, it issues not out of the Soyl, no Distress can be taken, descends not to the Heir, nor is incident to the Reversion, Entry of the Lessor doth not suspend it, &c.

All this is granted, but yet many things go under the name of Rent, even legally and properly, which are none of *Littletons* Rents.

I grant you Twenty pound, during your life, to be taken of my person, without charging of my Land; this is a Rent, as appears by the Registers, the most Fundamental Book of Common Law, and by the Original Writs; which being the ground of Suits, are most accurate and curious in names. *Register. fol. 159.* The Writ of Annuity, *Rex vic. sal. precipe A. quod iuste reddat. B. 20. libras que ei aretro sunt de annuo redditu 20. solidorum.* Here an Annuity is called Rent. *Fitz-Herbert, Nat. Br. 152.* speaks of a Rent, *Issant hors de Cofers, 29 Hen. 6. 12.* *Margery Parkers* case, *Royne grant a lui un annuel rent de 20 l. pour terme de vie a recevoir, de quadam pecunia summa assignata, in partem dotis ipsius Regina de Magna Custuma London, 1 Hen. 6.* We read of a Rent reserved upon a Chattel personal, a flock of Sheep, and such like; and yet in all these Cases, you may say, No Distress, no Assize, no Action of Debt till the Term be ended, and all nothing to the purpose. See 20. *Ass. Pl. 5. Shard. 14 Edw. 3. Scire Facias 122. Co. 5. Seignior Mountjoyes* case.

But must every Statute that speaks of Rent, extend to those Rents? *Object.* No Statutes must be taken *Secundum subjectam materiam*, for such a *Answ.* Rent as this is not within 32 *Hen. 8.* of Leases by Tenant in Tail; Sir *R. C.*

nor of 1 *Eliz.* Leases by Bishops ; nor of 13 *Eliz.* Leases by Deans and Chapters ; for as it is said, *Cor.* 8. 60. Bishop *Farnius* case, those Stautes look to the benefit of the Heir or their Successor, and therefore must be intended of a Rent incident to the Reversion, and issuing out of a thing Maynorable ; but in our case, the Statute looks to the benefit of a stranger, the Person to whom it is, not material what Rent it is, so it be a yearly payment.

3. Though it were no Rent in the Common Law, yet without all doubt, it is in the Ecclesiastical Law ; according to which it must be here expounded.

4. That it is a Rent in that Law, is manifest *Pensio que provenit domo vel habitatione, & redditus pradialis.* *Lindwood, fol. 109.* And in the Englishing of the Constitutions above mentioned, *Annua Pensio domus*, is rendered Rent, Payment, Price, Pension, Farm, in the old Book of *Customs*. Now that in Matters Ecclesiastical, the Common Law judgeth according to the Ecclesiastical Law, is certain : For even in special Courts of Common Law, it judgeth as those Courts would ; in Matters customary, it altereth the Common Law to fit them to the the Custom, *Quia dominus remisit Curiam.*

The Statute 31 *Hen. 3. c. 3.* when a man dies intestate, the Ordinary shall deute the next, and most lawful friends of the person dying intestate, to administer his goods. Now by goods at the Common Law, are not meant Leases for years, Wardship, Prochyn, Avoidance, 4 *Edw. 6. Br. Grants* 51. If I make you a Deed of Gift of all my goods, *Omnia bona mea*, you shall have none of these, yet it was always taken *Sans Contradiction*, That the Ordinary may by these words grant Administration of Leases ; and if an Administration of goods be granted without more words, *Wray* said, 22 *Eliz.* such an Administration hath power to deal with Leases for years, because the Spiritual Law so takes the word *Bona*, by which we are to judge. But this is our case, for now in like manner the Spiritual Law under Rent, includes this Annual payment ; and *Ergo*, the Judges are to take it so.

5. That it must needs be a Rent within the intent and true meaning of this Decree, appears

First, It was made for the maintenance of the Clergy, and so *Pro bono Ecclesie* ; and consequently, for the maintenance of Religion, and Service of God : How *Summa est ratio quæ pro Religione facit.*

Secondly, It was made to suppress Fraud and Covin ; it is spoken of through all the Branches of the Decree. Now the Civil Law saith, *Dolis & fraudibus omnibus modis occurrendum*, then specially such

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Frauds as this; for Statutes of such a nature, are extended by equity beyond the word, and therefore well may the word here be taken so far as common speech doth extend them: For this favor the Judges have ever extended even to Statutes most penal; for words must stoop to meaning, not meaning to words? and yet this Decree must be extended in Equity, even beyond what the words will bear in common sense, in some cases.

The *Register* and *Fitz-Herbert N. Br. fol. 152.* tells us of *Redditi-
us Roba*, and like. Now suppose a man make a Lease of a House in *London*, reserving so many Furs, so many robes, shall not the Parson have his Tythes of every Ten shillings value; a man makes a Lease, and the Lessee covenants in the same Indenture to pay for it Ten shillings yearly, and this without intent to defraud the Parson, *Beefsons* case, *Plowd. 131. 2.* doubts, whether this be Rent, and the Pryor of *Binghams* case is vouched. That it is no Rent, *fol. 136. 2.* But is there any doubt, but this is a Rent within the Decree.

Or if one make a Lease of a House, and the Lessee grants him a yearly Fine, during the term; and if it be behinde, he shall distrain for it. This is no Rent, but an Annuity, and the clause of Distress onely a penalty. *Buts* case, *Coo. 7. 23. 2.* yet no doubt the Tythe is due to the Parson.

This Decree comes instead of that provision formerly made for Tythes in *London*, and not by enlarging, but by way of diminution, taking from the Clergy nine pence in the pound, which they had before; and therefore ought to be taken strictly against them, and largely for them.

3. Without all question, the meaning of the Decree was, That the rates therein expressed, should be paid as the rates formerly in use were paid before the Decree: For though there was made an alteration of the rates, Three shillings six pence, made Two shillings nine pence; yet it was never intended, but that the manner of payment should continue; and therefore Rent in the Decree must be taken as it was formerly taken by Constitution or Custom before the Decree, which was for any kinde of payment, as is manifest for the practise of former times, appears by the names then used, *viz.* Rent, Pensions, Payment, Price, in the Book of Customs: it is called Rent or Farm in the Proclamation, confirmed by Act of Parliament, 27 *Hen. 8.* The Citizens never paid according to any fixed Rents; but as the Rent improved, so did the Tythe, as appears by *Arundels* Constitution, declaring, That if the Rent were above four pence, the

the old Rent of some House in those times, then they should pay to whatsoever sum it arose; By the Bull ordaining to pay *Secundum verum valorem pro quo domus, Secundum veram estimationem locari poterit*; By the Award, 31 H n.6. wherein Houses let out, or kept by the owners, were to pay after a common value; By the *Decimary* of St. Magnus in the Book of *Customs*, 7 Hen. 7. wherein they pay after the full Rents; some Ten pounds, some Sixteen pounds; which was as high a Rent then, as One hundred pounds now; By the Bill in *Star-Chamber*, 25 Hen. 8. wherein the City sets out, That the Rents of Houses were enhanced and doubled; and that they paid Tythe after the enhanced Rents; and that divers new Houses were built in void grounds, and some newly repaired; and that they paid Tythe for them as for other Houses, which they would not have done, had they been as wife as men are now. And in all former Controversies about Tythes, even in those which occasioned the Decrees of 25 & 37 Hen. 8. There was no question made at all about the Rent, for which the Tythe was to be paid but about the quantity, how much in the pound; and therefore the occasion of the Decree being onely to settle that, it could never intend to alter other things which were not at all in question; for such Leases and Fines were never paid before the Decree, nor many years after.

Decree in the
Exchequer, for
the true value
in Tythe cases
16 Jac.

4. By a Decree in the Exchequer, *Pasche*, 16 Jac. the Barons declare, That they conceived the meaning to be, That Tythes should be paid according to the true value, as the Houses are worth to be let *per annum*.

5. The practice of the Ecclesiastical Courts, is such, That divers Sentences have been given for payment, according to the true value, whether the Annual Payment were called Fine or Rent.

6. The Decree provides, That where more Rent is reserved, for implements of Brewing, Dying, &c. a third penny shall be abated; and where less Rent is reserved, by ruine, fire, or any other casualties, there shall be abatement of Tythe accordingly; and therefore it must needs be meant, That in other Cases the House should pay according to the value.

Those Annual payments are not Fines in common speech, nor according to ancient use, and therefore could never be intended to be exempted from Tythes: For as there were few Fines anciently, so usually they were some small sum which the Lessor had been at for reparation, which the Tenant was to pay at his coming in; but now by Fine they reserve the whole value of the House: besides in common

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speech, a Fine is a sum paid beforehand, and therefore called an Incomb; and so in this Decree, is called a Fine paid beforehand, and in some places a gross sum, the Rent being paid in many sums afterwards: Whereas in these practises, the Fine and Rent differ not, but in name; and by as good reason the Country-man that called his Pigs Puppies, might refuse to pay his Tythe Pig, because Puppies are not Tytheable: Besides the reason why Fines are paid, is either to furnish the Landlord with ready money, or to ease the Tenant by bringing down the Rent, or to secure the Rent to the Landlord, by a Fine paid beforehand. None of which reasons are of any use here, so that the onely cause is the Parsons Tythe; and therefore no such Leases are known in any part of the Kingdom besides.

The encrease of Rent, is either because the House is greater, or fitter for a greater family; or because Trading encreaseth, and Rent riseth: In both which cases, all reason requires that the Tythe should encrease. For by the first, the Parson hath a greater charge of Souls; by the second, the Parishioner is better able to give, his gains being greater.

9. Otherwise, divers absurdities will follow hereupon; for by this device in a new House, a new Parishioner, shall come and partake *Sacra & Sacramenta*, and yet be bound to pay nothing to the Parson, reserving all by Fine.

Here is *Officium sine Beneficio*; besides hereby the Ministers Means shall stand at a stay for ever: Though all Means of Livelihood grow ten times dearer, hereby the nine parts shall encrease to the owner, and not the tenth part to the Parson, &c.

10. These practises were resolved by all the Reverend Bishops under their hands, and by both the Universities, *Anno 1620.* to be utterly unlawful in point of Conscience.

There can be no fraud here by the Common Law, because the Parson hath no present Right or Interest in being, nor by the Decree. Objection against the Legality.

First, Because this is a Rate-Tythe.

Secondly, Because the second clause requires onely, That where no Rent, or less then was wont, is reserved, the Tythe shall be paid according to the Rent, for which it was last letten.

The ground of this is false, That there can be no fraud, but where the party hath a present Right. This is against as many Acts of Parliament almost, as speak of Fraud, instance *Marlebe, cap. 6. De his qui primogenitos, &c.* Of those that Infeoff their Heirs within age, to defraud the Lords of their Wardships: The Statute saith not, That shall

shall hereafter Infeoff, but *Qui Feofare folent*: So here was a Fraud by Common Law before the Statute, though not made void, and so penal till the Statute: and yet the Lords which were defrauded, had no present Right, for their Interest groweth long after by the death of the Tenant that made the Feoffment. See 13 *Eliz. Dyer* 294.

Here is *Quasi* a Rent in *Effete*, and to grow upon an instant; for in the instant that the Lease is made, the Right of the Parson grows to have the Tythe

The very Decree makes it Fraud against the Parson, *Disertis verbis*, as 27 *Eliz.* doth against a Purchaser that purchaseth the Land after.

To the second part I answer; First, This Rate-Tythe must follow the Rent; and if that be uncertain, then is the Tythe also, and so subject to fraud.

Secondly, For the clause of the Decree, I answer there is *Fraus in intentione*, and *Fraus in executione*; here is an intent of Fraud, but in effect there is none; for he intended to deceive the Decree, and it deceived him; where he intended an Annual payment to be no Rent, which the Decree saith is a Rent, and so Tytheable; so *Fraus in authorem reddit*, and so Fraud is out of doors; besides the substance or body of the Decree is the first clause, and the question rests, Whether this Annual payment be a Rent within that clause of the Decree; which if it be, the Branch following *Nihil operatur fraude*, or no Fraud, within that Branch is not material.

By the Decrees and Acts of 25 & 37 *Hen. 8.* a new duty is created; for no Tythes were paid before, but Oblations onely; for the Churches of *London* had nothing but Oblations and Obventions: And therefore the Tythes being onely by force of those Statutes, the words must be expounded not according to former practises, but according to the Common Law.

This is clearly otherwise; for these Payments are not Tythes more now then heretofore, nor less heretofore then now: For though Two shillings nine pence be more then a tenth part, yet it is called a Tythe; and so was the Three shillings six pence long before either of the Decrees of 25 or 37 *H. 8.* In *Arundels* Constitution, 21 *R. 2. Anno* 1397. They are called *Oblationes seu decima*. *Lindwood* who lived in *Anno* 1422. saith in the place alledged *cap. 1.* They are paid in lieu of Predial Tythes of Houses, and recompence of want of Glebes; referring himself to the Constitution of *Roger Niger*, then extant In divers Suits and Sentences in the Courts Ecclesiastical, they are called *Decima*; in a Libel in the *Arches*, 10 *Hen. 8.* they be

be thrice called *Decima*. In a Sentence there, 18 H. 8. it is said to be *Secundum consuetudinem solvendum Decimas in Civitate London*. In the Acts of Common Council, 19 H. 8. It is said the Bull confirmed by that Court, 14 Edw. 4. was concerning Tythes and Oblations. So in the Suit in *Star-Chamber*, 25 H. 8. they are called Tythes, and the witnesses depose for Forty, fifty, sixty years, these payments were paid sometimes quarterly, sometimes at *Easter* by the name of Oblations or Tythes; so that the Custom of Offering upon each several day, was left off, and the payments made yearly or quarterly long before, 25 H. 8. So that it is certain, neither the name, nor the nature of those payments or duties are altered by any Act of Parliament, as is commonly (but ignorantly by many affirmed) but only the quantity made less, as appears by what is formerly said.

Object. 3.
Vide p. ult.

But there is a clause in the Decree, That where less then Two shillings nine pence for every twenty shillings Rent, hath been accustomed to be paid for Tythes; there such Tythe shall be paid onely, as hath been accustomed. *Object.*

This clause is by some expounded of *St. Martin le Grand*, which is in the City, but not of the City, and the out Parishes which pay two shillings in the pound by Custom; but this cannot be, for those places are not within the Decree (which extends onely to the Liberties of the City) and therefore they cannot be excepted out of a Rule wherein they were never included. It must be therefore meant of such Parishes or places within the City, which by special Custom pretended to pay onely after the Rate of two shillings in the pound, as appears by the Citizens Bill in *Star-Chamber*, 25 H. 8. wherein they name some such places within the City; and by the Majors Precept upon the Order then made, directed to every Ward, wherein it is expressed, That such as paid onely two shillings in the pound, should pay no more. Now though this were pretended by the City in that Bill, yet it appears by the Depositions their proof came short herein: And therefore the makers of the Decree, do not specify this Rate of two shillings in the pound, but do onely in the general say, That where less then two shillings nine pence was accustomed to be paid, less should be paid, leaving them which alledged the said Custom, or any other, to prove the same. *Ans.*

Now seeing no Parish or place in *London*, doth at this day, pay according to that Rate of two shillings in the pound, or of any lesser sum; nor was any such Custom ever yet proved (though often alledged) and whosoever will prove any, must prove a Custom of paying after

after such a Rate, before the 37 H. 8. which at this day is impossible for any to do: It follows there, That this Proviso is of no use now in the Decree, nor can it any way benefit any of the City in this case, nor indeed could any man in any Suit yet make use thereof.

Objection against the
Conveniencey.

Answer generally.

The Livings in *London* would be too great; Parsons would be all Bishops; some worth Two thousand pound *per annum*, if Tythes were paid according to improved Rents.

It is unjust to detain any mans right, though it would make him never so rich. Would any rich men think it fit, that others should defraud them of their right; because, if it were paid, they would be too rich; and because the Parsons would be little Bishops, if they had all, must they therefore live like Beggars?

If any Living should swell to so great a proportion, the remedy should be to divide the Parish into more Parishes, and not to deprive the Church of its due.

But to answer this more particularly.

Answer particularly.

First, These Objections concern not the Ninety seven Parishes within the Walls, where few new Buildings can be raised; and if the Tythes were paid according to the utmost value, there would be within the Walls

1. Eight Benefices not worth above One hundred marks, or One hundred pound *per annum*.

2. Not above Three within the Walls worth Five hundred pound *per annum*.

3. Not above Six more worth Four hundred pound *per annum*.

The rest would be between One hundred and Three hundred pounds *per annum*, and the most of them not above One hundred fifty pound or Two hundred pound *per annum*.

Secondly, If Tythes were thus paid it would be

1. No more then Livings of the like value in the Kings Books in the Country; for some are at Sixty, some at seventy, divers at forty, and thirty, and few less then twenty pounds.

2. Not so great as where there is like number of Inhabitants of far less ability in the Country, where some Farmer not worth Five hundred pound, pays more Tythe then twenty of the best Houses in *London*.

3. Nor near so great as before the Decree, when yet they could not have such charges being to live single, and their pains not comparable to Preaching now used, the bare Tythe of *St. Magnus, An. 1474.* besides Oblations, Mortuaries, Obits, Trentals, Chantries, &c. which

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which were very many, and great, was Eighty seven pound eleven shillings eleven pence half penny, which was as sufficient maintenance then, as Five hundred pound now; and yet the Tythe is not above Eighty four pound, and it stands in the Kings Books taxed at above Sixty nine pounds, besides forty shillings in Pensions.

4. Nor should the Clergy have more free maintenance than is suitable to their education and charge, nor above ordinary Citizens, among whom they live, who are many of them worth five or six Bishops, or half the Parsons in *London*.

2. For the Parishes without the Walls, by reason of new Building, they are swollen very big; yet the biggest would not be worth above Fifteen hundred pound *per annum*, or thereabouts, as hath appeared by a valuation made of every House; but here consider,

1. These stand a great part without the Liberties, and so are not within the Decree.

2. They be all appropriate, save *St. Andrews in Holborn*, and *St. Buttolph Bishopsgate*.

3. They are so great, that they are fit to be divided, and so the maintenance would be but reasonable.

4. The particular Parishioners there shall pay no more than those in the least Parishes in *London*; so that there would be no greater burthen to any particular man, by the Parsons benefit.

5. The Parsons in those Parishes are at more charge and pains, and must keep two or three assistants.

Thirdly, the desires of the present Clergy for encrease of their maintenance, were conceived to be so moderate by all indifferent men, that one may justly wonder how they could be rejected; for in their demands lately tendered and sent to the several Parishes, we may observe these particulars.

1. There are Thirty Parishes within the Walls, wherein they desired not that the whole Tythe should exceed One hundred pound *per annum*; and in most of those Parishes, less was desired; in some Eighty, in some seventy, in some not above fifty pound *per annum*.

2. There was but one Parish within the Walls, wherein was desired Three hundred pound *per annum*; nor above three more wherein was desired Two hundred pound *per annum*, or upwards in Tythe.

3. The whole Tythe demanded in all the rest of the Parishes within the Walls, was between One hundred and Two hundred pound *per annum*.

4. Even in the greatest Parishes without the Walls, there was not

above One hundred pound *per annum*, desired in any, above that which is now paid ; which yet is no more then some small Parishes within the Walls have allowed for a yearly Lecture.

These demands were all they desired the Tythe should be raised unto, and that no greater sum should be paid, provided, That their Successors might not hereby be concluded, or shut up ; but that upon the variation of times, some way might be open upon just cause for such alteration of the Rates, as the King and State should think fit.

The Livings are competent already, and some of late improved.

The competency will appear by a general survey of their present estate, *viz.*

1. There be Twenty Livings within the Walls, under Forty pound *per annum* ; and some of them Twenty, some thirty pound in Tythes.

2. There is but one within the Walls, worth One hundred pound ; or upward, in Tythes.

3. There are not above Twenty that exceed Seventy pound *per annum*, whereof few arise to One hundred pound ; all the rest within the Walls are within Forty and seventy pound *per annum*.

All without the Walls, and within the Liberties, are appropriate but two.

The Casual profits are not equal to the yearly charge issuing out by Tenths, Penſions, Procurations, &c. And where in some few Livings there is a little Glebe, which was in the most part of the Parsonage-House divided and let out, there are about Twenty Livings that have not so much as a dwelling house.

CHAP. VI.

The second Case concerning Ecclesiastical Jurisdiction for Tythes in London. That the Lord Majors power is not exclusive to the Ordinaries, but only accumulative.

THat the Ecclesiastical Jurisdiction concerning Tythes in *London*, is not taken away by any of the Decrees, or Acts of Parliament ; but remains *In statu quo prius*.

1. It is granted, that before 37 H. 8. the Jurisdiction remained, nor was any new duty of Tythe then created, as is before proved. Now supposing the Decree to be an Act, there are no Negative words to take it away ; and an Act of Parliament in the Affirmative doth

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doth not take away the Jurisdiction Ecclesiastical, unless some Negative words be added, as not otherwise, nor in other manner, &c. As *Cooke* in *Camdries* case, who saith, It is the general Rule in all their Books, citing divers Authorities to this purpose.

2. The parties compromising, were onely the Curates and the Citizens, and not the Ordinary; and therefore no Act made by vertue of that compromise, can binde the Ordinary, or take away his Jurisdiction; for the Act of Parliament saith onely, it shall binde the said parties, *viz.* Curates, and Citizens, and their Heirs and Successors, but mentions not the Ordinary.

3. The original Decree was delivered by the Lords to the Bishop of *London*, to be kept in his Regitry; and in the time of King *Edward* the Sixth, the Lords of the Council, whereof some were makers of the Decree, gave order to the Bishop of *London* in the Kings name, to cause the Citizens to pay their Tythes, which he could not do without Jurisdiction.

Acts & Monuments, Vol. 2. fol. 1187. col. 2. Artic. 9.

4. Prohibitions were never granted anciently in the time of *Queen Elizabeth*, upon such Suggestions, as they are granted for in the Country, *Circa metas & boundas*, and *Circa modum decimandi*, &c.

5. Though the Jurisdiction were quite taken away, yet it is restored again, 1 & 2 *Phil. & Ma.* c. 8. towards the end, which sets the Bishops in the same state for Jurisdiction and Cognizance of causes, as they were before 20 *H.* 8. And if any say that Statute is repealed 1 *Eliz.* c. 1. I answer not wholly, but in part; for this clause stands confirmed by general words, *viz.* That all Acts and Clauses of any Statute repealed by that of 1 & 2 *Phil. & Ma.* and not revived by that of 1 *Eliz.* shall stand still repealed; and therefore, if that part of the Decree which takes from the Jurisdiction Ecclesiastical, were repealed by 1 & 2 *Ph. & Ma.* then it stands repealed still; and by the same clause, is that of 1 *Edw.* 6. c. 2. concerning Bishops sending Process in the Kings Name, and under his Seal, repealed, or else its not repealed to this day; for though it were repealed in 1 *Ma.* c. 2. yet that Act 1 *Ma.* is repealed again by 1 *Jac.* 25.

6. Besides Tythes in their own nature, are originally of Ecclesiastical Cognizance; and so whatsoever comes in the name of Tythe, except by special words it be otherwise determined (which is not here) remains of Ecclesiastical Cognizances.

7. In the Exchequer, 16 *Jac.* *Ivats* case, it was over ruled against the Defendants Plea, of the Lord Majors being to be Judge.

That notwithstanding that Court had knowledge, the Impropriation

tion being held in Fee-farm of the King; and upon this ground, that the Majors power was not exclusive to any other Jurisdiction, but onely accumulative.

7. Lastly, It appears by what was said before *cap. 1.* That before this Decree, the Ordinaries Jurisdiction was not in question; for that the City put up a Bill in Parliament, 35 *H. 8.* that none might sue for Tythes any where, but in the Spiritual Courts, or by Action of Debt at the Common Law, which shews it was never intended nor desired, that the Ordinary should be divested of his power.

Object.

It is objected, That the Major is the onely Judge named in the Decree, and the Tythes herein mentioned, are not nor can be claimed by any other Law, then by this Decree; and therefore cannot be sued for before any other Judge, then such as the Decree directs unto.

Ans.

This Argument takes that for granted, which is utterly denied, viz. That the Tythes in London are grounded onely upon the Decree of 37 *H. 8.* as if there were no other Law now in force, which is apparently an error: For this Decree doth not abrogate nor nullifie any other Law formerly in force, further then where it was contrary to this.

Now it is certain, That Two shillings nine pence in the pound, was due by Laws in force before this Decree, viz. By the Award and Proclamation in 25 *Hen. 8.* confirmed by Act of Parliament, 27 *H. 8.* The force of which Award, and Proclamation, and Act, were no ways nullified by this Decree, but were onely confirmed and explained thereby in some things then doubtful; so that they were then, and are still in force: And therefore seeing that by them the Ordinaries power was not extinct, as is clear and granted by all; it is as clear, that there is nothing in this Act to extinguish it; for the Major had power by the Statute of 25 *H. 8.* as well as by this of 37 *H. 8.* and there are no Negative words in this, more then in that.

Yes, not onely are the Award and Proclamation of 27 *H. 8.* and Act of Parliament of 27 *H. 8.* still in force; but also the Constitution of *Roger Niger*, and Archbishop *Arundel*, with the Award made in 32 *H. 6.* and other Laws then in use, are all, as may be probably concluded, at this day in force, viz. So far as they are not contrary to the Act and Decree of 37 *H. 8.* For if they were abrogated, I would gladly know, when and by whom. In the 25 *H. 8.* they were not, nor by the Statute of 27 *H. 8.* for then onely the quantity was altered from Three shillings six pence, to Two shillings nine pence; and in all other things, the payment was left to the former Laws and Constitutions and Customs, according to which the controversies were determined

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determined, arising after that time, as appears by the sentences still remaining on Record; and in the 37 H.8. there is nothing abrogates any of them, further then when they are contrary to what was then decreed: And therefore it is probably thought by some, that for non-payment the Major Excom. is now incurred *ipso facto*, according to *Arunde's* Constitution, and that none ought to be absolved without payment *Nisi in articulo mortis*, as is there set down: And certain it is, that if this last Decree were quite abrogate, the Clergy might have as good Law for their Tythes, as they have now.

Further I answer, That though the Ordinary had no Jurisdiction formerly, yet the very nature of Tythes here decreed gives him Jurisdiction, unless Negative words had been added.

It is further said, That the nature of these payments is altered, by Object. this Decree Oblations are made Tythes; and though formerly the Ordinary had power, whilst they had the name of Oblations, yet now another Judge being mentioned, and the Oblations become Tythes, the case is altered.

This is clearly refuted by the precedent History, whereby it is manifest, that neither the name, nor the nature was altered by this Decree. The Proclamation appoints Two shillings nine pence to be paid for Tythes, and two pence at *Easter* for Oblation or Offering.

So the Award, 25 H.8. and so most of the precedent Acts stile them Tythes, and long before, not onely this last Decree, but before 25 H.8. yea, before the time of *Henry* the Eighth, the payment on several Offering days was disused, and the whole paid in one or four eatige payments, by the name of Tythes; and yet it is most certain, that then the Ordinary had this Jurisdiction, and that solely.

But it seems these two Jurisdictions of the Ordinary, and Lay Object. Major, cannot both stand by the Letter of the Decree: For by the Decree, if any difference arise upon complaint of the party grieved, the Major may make an end, and force the parties to stand to his Decree. Now suppose the Ordinary should determine otherwise concerning the same matter, and force, by Censures of the Church, the parties to obey his Sentence; here it will be doubtful to whom obedience must be given, and so the one Jurisdiction must destroy the other.

I answer first, it may well be affirmed, that by the party grieved can be onely meant the Minister; for wherein can the Citizen be grieved? if the Minister demand more then his due, the Citizen may withhold payment, and so long I hope he is not grieved by the Ministers demand.

If it be said, he is grieved when he is sued in the Spiritual Court, I answer, That this grievance cannot be here meant, because first, the party must be grieved with something mentioned in the Decree, which this is not : And secondly, the grievance must be such as the Lord Major can help or remedy, but this he cannot ; for he never did, nor can stay the proceeding in any Spiritual Court, nor ever used any compulsive power against any Minister, but against the Attorney onely, according to the words of the Statute, 27 H.8.

Secondly, I answer by propounding the like question. The Exchequer hath power to determine matters of Tythe in *London*, where the Living is impropriate and held in Fee-farm of the King, as hath been often adjudged, especially in *Jones* case, 16 Jac. Now suppose that Court and the Major make contrary Decrees, which of them must be obeyed, or how can the words of the Statute be made good for the Lord Majors power ? Here I know it will be answered, that the Exchequer being the higher Court must take place, and the Lord Major may not meddle with causes there depending : But I say this is not mentioned in the Decree, but onely gathered by consequence ; because that Court had Jurisdiction before the Decree, which Jurisdiction is not taken away by the Decree ; and if so, then the very same answer do I give for the Spiritual Court, which is superior to the Majors in matters of Tythes, and had power before him many hundred years in this case ; so that he ought not to meddle with matters there depending.

Object. 4. But Statutes and Acts of Parliament must be expounded by Judges at Common Law ?

Answer. I. This makes nothing to the Question ; for first, the Lord Major is none of those Judges ; and secondly, this proves onely, that the Judges may prohibit the Spiritual Court, if it proceed contrary to the true meaning of the Decree ; but if it proceed according to the true sense of it, then it may proceed otherwise.

No Ordinary could hold out Plea for Tythes in the Countrey, because there are Statutes made for all Tythes in the time of *Henry* the Eighth, and *Edward* the Sixth, which yet we know they did, and may do lawfully, and are never prohibited, but upon suggestion, that they proceed contrary to the meaning of those Statutes and Customs, which the Judges conceive they onely are to interpret.